

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

KOLBY DUCKETT, DAVID SCHILLING, and)	
DAVID HOLLOWAY)	
)	
Plaintiff)	
)	
v.)	No. 1:19-cv-00295
)	
CHIEF BRIAN HICKMAN, individually,)	
and in his official capacity as Chief of the)	
Collegedale Police Department, TED)	
ROGERS, individually, and in his official)	
capacity as City Manager for the City of)	
Collegedale, Tennessee, and THE CITY)	
OF COLLEGEDALE, TENNESSEE)	
)	
Defendants)	

**THE CITY OF COLLEGEDALE AND TED ROGERS' RESPONSE TO PLAINTIFFS'
MOTION TO COMPEL CURTIS BOWE**

The City of Collegedale (the "City") and Ted Rogers, through counsel, respond to Plaintiffs' Motion to Compel Curtis Bowe as follows:

1. Curtis Bowe was served with a total of three subpoenas by the Plaintiffs and Chief Hickman on or about May 6, 2020, June 1, 2020, and August 12, 2020. See Doc. 29, 34 & 54. The August 12, 2020, subpoena commanded Mr. Bowe's testimony at a deposition while the other two subpoenas commanded the production of certain documents and communications.

2. Mr. Bowe moved to quash the August 12, 2020, deposition subpoena on or about November 4, 2020. See Docs 66 & 68.

3. Mr. Bowe is a local attorney and also serves as a reserve officer for the City's police department.

4. Mr. Bowe is not the City's attorney.

5. In his memorandum in support of his motion to quash, Mr. Bowe asserts various members of the City's police department sought legal advice from him regarding what the Plaintiffs have alleged was an illegal traffic ticket quota. See Doc. 68.

6. Similarly, at his deposition, Sgt. Jamie Heath testified he and then Lt. Jack Sapp had an off-duty conversation with Mr. Bowe relative to the alleged illegal traffic ticket quota, and Lt. Sapp asked Mr. Bowe at the outset of the conversation whether the conversation was protected by the attorney-client privilege. According to Sgt. Heath, Mr. Bowe answered in the affirmative. See. Ex. 1 - Deposition of Sgt. Jamie Heath, p. 110:11-114:21.

7. The City and Ted Rogers are currently unaware of any potentially privileged communications between Mr. Rogers and Mr. Bowe.

8. While the City and Mr. Rogers recognize neither likely has any basis to assert privilege on behalf of Sgt. Heath, Lt. Sapp, or any other City employee who sought legal advice from Mr. Bowe, the City and Mr. Rogers are unaware of anything that suggests these individuals waived any privilege in these communications. In fact, Sgt. Heath asserted privilege in these communications at his deposition. See. Ex. 1.

9. Accordingly, the City avers that it has no attorney/client privilege as to any communications its employees had with Mr. Bowe and thus takes no position on this issue, except for Chief Brian Hickman, and the City will rely on any privilege argument he may make by and through his own independently retained counsel.

Respectfully submitted,

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Attorneys for Defendants, City of

Collegedale and City Manager Ted Rogers

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of November, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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/KHG/PAW/collegedaleduckett/response to plaintiffs motion to compel curtis bowe